

State of South Dakota

EIGHTY-NINTH SESSION LEGISLATIVE ASSEMBLY, 2014

228V0042

SENATE ENGROSSED NO. **HB 1177** - 03/10/2014

Introduced by: Representatives Gosch, Cronin, Dryden, May, Novstrup (David), Olson (Betty), Steele, Stevens, Westra, and Wink and Senators Maher, Brown, Curd, Jones (Chuck), Kirkeby, Peters, and Rave

1 FOR AN ACT ENTITLED, An Act to restrict the regulation by local governments related to use
2 of electronic wireless communication devices in motor vehicles, to prohibit the use of
3 certain handheld electronic wireless communication devices, and to provide a penalty
4 therefor.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That chapter 32-26 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 No person may operate a motor vehicle on a highway while using a handheld electronic
9 wireless communication device to write, send, or read a text-based communication. This section
10 does not apply to a person who is using a handheld electronic wireless communication device:

- 11 (1) While the vehicle is lawfully parked;
- 12 (2) To contact any emergency public safety answering point or dispatch center;
- 13 (3) To write, read, select, or enter a telephone number or name in an electronic wireless
14 communications device for the purpose of making or receiving a telephone call; or



(4) When using voice operated or hands free technology.

State or local law enforcement agencies shall enforce this section as a primary action. A violation of this section is a Class 2 misdemeanor.

Section 2. That chapter 32-26 be amended by adding thereto a NEW SECTION to read as follows:

Terms used in this Act mean:

(1) "Electronic wireless communication device," a mobile communication device that uses short-wave analog or digital radio transmissions or satellite transmissions between the device and a transmitter to permit wireless telephone communications to and from the user of the device within a specified area;

(2) "Voice operated or hands free technology," technology that allows a user to write, send, or listen to a text-based communication without the use of either hand except to activate, deactivate, or initiate a feature or function; and

(3) "Write, send, or read a text-based communication," using an electronic wireless communications device to manually communicate with any person using text-based communication including communications referred to as a text message, instant message, or electronic mail.

Section 3. That chapter 32-26 be amended by adding thereto a NEW SECTION to read as follows:

The Department of Public Safety shall expend lawfully appropriated funds to develop and communicate a distracted drivers public awareness campaign.

Section 4. That chapter 32-26 be amended by adding thereto a NEW SECTION to read as follows:

For the purposes of equitable and uniform regulation and implementation, the Legislature

1 is the exclusive governmental regulator of all matters relating to use of electronic wireless
2 communication devices in motor vehicles. However, any public or private employer may
3 establish, maintain, or enforce a policy or rule that prohibits any employee from using an
4 electronic wireless communication device while operating a motor vehicle.

5 Section 5. That chapter 32-26 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 No handheld electronic wireless communication device used in violation of this Act may
8 be seized by a law enforcement officer to establish a violation of this Act. However, a handheld
9 electronic wireless communication device may be seized upon compliance with the search and
10 seizure requirements in chapter 23A-35.